

STATE OF MARYLAND

v.

JOSEPH SMITH

IN THE CIRCUIT COURT

FOR FREDERICK COUNTY

CASE NO.C-10-CR-23-000791

**MOTION PURSUANT TO MARYLAND RULE §4-252**

Now comes the Defendant, Joseph Daniel Smith, by and through Counsel, John Maclean, and respectfully represents unto this Honorable Court:

1. That all charges against this Defendant be dismissed for defects in the institution of the prosecution and in the charging documents.
2. That all evidence seized from the person of the Defendant at or about the time of the arrest be suppressed because such evidence was seized unlawfully, absent probable cause, and in violation of the United States Constitution, the Maryland Declaration of Rights and other legal rights of this Defendant.
3. That all evidence be suppressed which was unlawfully seized by police officers or their agents in their search of persons, premises, motor vehicles or any container in connection with this alleged offense.
4. That all evidence be suppressed which was seized as a result of the illegal interception of wire or oral communications.
5. That all pre-trial identifications be suppressed because any such pre-trial identification procedure was:
  - a. So impermissibly and unnecessarily suggestive as to give rise to a very substantial likelihood of misidentification.
  - b. Performed in the absence of appointed or retained counsel for the Defendant. U.S. Const. Amend. V, VI and XIV, Md. Declaration of Rights, Art. 21 (Right to Counsel) and Art. 24 (Due Process of Law).
6. That any in-court identification of this Defendant be suppressed as the product of a pre-trial identification process which was impermissibly suggestive, or which was otherwise violative of the Constitutional and other legal rights of the Defendant.
7. That any admissions, statements, or confessions by the Defendant be suppressed as having been:
  - a. Either coerced, involuntary, and/or elicited during custodial interrogation in violation of the Defendant's Fifth and Fourteenth Amendment rights.

- b. Elicited by the initiation of State authorities after the appearance of counsel, formal charging or arraignment in the absence of counsel, in violation of the Defendant's right to counsel.
  - c. Induced in violation of the common law of Maryland.
- 8. That any admissions, statements, or confessions by the Defendant be suppressed as having been obtained in violation of Miranda v. Arizona, 384 U.S. 486, 16 L. Ed. 2d 694 (1964).
- 9. The Defendant moves that he be tried separately for each offense and apart from each and every other Defendant, and respectfully avers that to proceed otherwise would be clearly prejudicial to the Respondent's Constitutional and other legal rights.
- 10. That any and all prior adjudications of the Defendant be suppressed as having been unconstitutionally and unlawfully obtained, and, further, that the prejudicial effect thereof will far outweigh any probative value thereof under the particular circumstances of the case.
- 11. That Defendant moves, pursuant to Maryland Rules of Procedure, Rule 4-271, the U.S. Constitution and Maryland Declaration of Rights, for a speedy trial and requests that the charges filed be dismissed if a trial is held in violation thereof.
- 12. That the charges be dismissed because the prosecution is barred because of statute of limitations, immunity, double jeopardy, res judicata or collateral estoppel.
- 13. That the charges be dismissed because the institution of the proceedings was unnecessarily delayed by the State to the prejudice and detriment of the respondent and in violation of his rights under the United States Constitution and Maryland Declaration of Rights.

**WHEREFORE**, the Defendant respectfully prays that this Honorable Court grant the relief requested in this Motion, and that he may have such other and further relief as the nature of his case may require.

POINTS AND AUTHORITIES

U.S. Constitution Amendments 4, 5, 6, 8, 14  
Maryland Declaration of Rights 21, 22, and 24

Respectfully submitted,

/S/ John Maclean  
Office of the Public Defender

AIS No. 0406150192  
Frederick County Public Defender's Office  
100 West Patrick Street  
Frederick, MD 21701  
Phone (301) 600-1988  
E-Mail: john.maclean@maryland.gov

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a copy of this Rule 4-252 was delivered electronically to the Office of the State's Attorney for Frederick County on August 31st, 2023.

/S/ John Maclean  
Office of the Public Defender